

## **Proposed Administrative Consent Agreement Background Summary**

**Subject:** Service Master  
9 Lund Road  
Saco, Maine 04072

**Date of Incident(s):** Standard operational practice by Service Master in 2007.

**Background Narrative:** The BPC received a call that Service Master has a standard practice of applying a disinfectant germicidal cleaner and deodorant to the interior of customers' homes when doing water damage restoration work. A Board inspector contacted the company and determined the company does this work. The product is registered as a pesticide. The applications are made under contract for which payment is received. No one at the company is licensed as a pesticide applicator.

**Summary of Violation(s):** 22 M.R.S.A. § 1471- D (1) (A). That commercial pesticide applications may only be conducted by certified commercial applicators.

**Rationale for Settlement:** The staff compared the violation to similar cases settled by the Board in formulating a penalty proposal.

**Attachments:** Proposed Consent Agreement

**STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES  
BOARD OF PESTICIDES CONTROL**

John DeGeorge	)	ADMINISTRATIVE CONSENT AGREEMENT
Service Master	)	AND
9 Lund Road	)	FINDINGS OF FACT
Saco, Maine 04072	)	

This Agreement by and between Service Master (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol adopted by the Board on September 19, 1984.

The parties to this Agreement agree as follows:

1. That the Company provides water damage restoration services for compensation.
2. That on September 4, 2007, the Board's office received a phone call in which the caller stated the Company had a standard practice of applying Servicemaster Sanimaster 5 to the interior of customers' homes when involved with water damage restoration work.
3. That in response to the call in paragraph two, a Board inspector conducted a follow-up inspection with the Company the same day.
4. That during the inspection in paragraph three it was determined that the Company does apply Servicemaster Sanimaster 5 One - Step Disinfectant Germicidal Cleaner and Deodorant, EPA Reg. No. 47371-130-79687, inside customers' homes for water damage restoration work.
5. That Servicemaster Sanimaster 5 One - Step Disinfectant Germicidal Cleaner and Deodorant, EPA Reg. No. 47371-130-79687 is a pesticide.
6. That application of any pesticide under contract or for which compensation is received is considered a custom application in accordance with 22 M.R.S.A. § 1471-C (5 - A).
7. That the applications described in paragraph four are custom applications pursuant to 22 M.R.S.A. § 1471-C (5-A).
8. That according to CMR 01-026 Chapter 10, Section 2 (I) 2, anyone who makes a custom application is a commercial applicator.
9. That commercial pesticide applications may only be conducted by certified commercial applicators pursuant to 22 M.R.S.A. § 1471- D (1) (A).
10. That no one employed by the Company was certified as a commercial pesticide applicator at the time of the applications described in paragraph four.

11. That the circumstances described in paragraphs one through ten constitute a violation of 22 M.R.S.A. § 1471-D (1)(A).
12. That the Board has regulatory authority over the activities described herein.
13. That the Applicator expressly waives:
  - A. Notice of or opportunity for hearing;
  - B. Any and all further procedural steps before the Board; and
  - C. The making of any further findings of fact before the Board.
14. That this Agreement shall not become effective unless and until the Board accepts it.
15. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph eleven, the Company agrees to pay a penalty to the State of Maine in the amount of \$500.00. (Please make checks payable to Treasurer, State of Maine.)

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

SERVICE MASTER

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Henry Jennings, Director

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Randlett, Assistant Attorney General